

BEFORE THE DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

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In the matter of Application 4759 by Grace Osterkamp
to appropriate from a spring tributary to Triunfo
Canyon via La Sierra Canyon in Los Angeles
County for Domestic Purposes.

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DECISION A. 4759 D 210

Decided 1/2/29 oOo

APPEARANCES AT HEARING HELD August 23, 24, 1928

For Applicant

Grace Osterkamp

Haas & Dunnigan by
W. E. McClintock

For Protestant

Thaddeus M. Brewster

J. Vincent Hannon

EXAMINER: Everett N. Bryan, Deputy Chief for Harold Conkling, Chief
of Division of Water Rights, Department of Public Works,
State of California.

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O P I N I O N

DESCRIPTION OF PROJECT

Application 4759 was filed on September 3, 1925 by Grace Osterkamp.

It proposes an appropriation of 0.6 of a cubic foot per second throughout the
entire year from a spring tributary to Triunfo Canyon via La Sierra Canyon
in Los Angeles County for domestic purposes on 100 acres of land situate in
Section 18, T 1 S, R 18 W, S.B.B. & M. The point of diversion is described
as being located 839.7 feet North of and 27.3 feet West of the southeast
corner of Section 7, T 1 S, R 18 W, S.B.B. & M., being within the SE $\frac{1}{4}$ of the

SE $\frac{1}{4}$ of said Section 7. The application was protested by Thaddeus H. Brewster.

As originally filed irrigation use was included but at the hearing applicant requested that this use be stricken from the application and it has been so amended.

PROTEST

Protestant alleges in effect that the waters which the applicant seeks to divert contribute to the flow of the spring from which he has been using water for more than 20 years last past and that therefore any diversion made by applicant as proposed would deprive him of water to which he is lawfully entitled.

He also alleges in effect that the spring from which the applicant proposes to divert is not situated in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 7, T 1 S, R 18 W, S.B.M. as described in the application but upon the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 7 which is owned by him.

HEARING SET IN ACCORDANCE WITH SECTION 1a OF THE WATER COMMISSION ACT

Application 4759 was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights and being protested was set for public hearing in accordance with Section 1a of the Water Commission Act on August 23, 1928 at 9:30 o'clock a.m. in Room 1026 Associated Realty Building, Los Angeles, California. Of this hearing applicant and protestant were duly notified.

PHYSIOGRAPHY AND HYDROGRAPHY

The spring from which the applicant seeks to appropriate is located in La Sierra Canyon at the junction of two small draws, one of which enters the canyon from the east from Castro Peak and the other from the south.

The spring itself is not developed and is covered with loose rock. It is very small, the wet area being about 2 or $2\frac{1}{2}$ feet in diameter.

The spring from which the protestant obtains his supply is located in the same canyon about six or seven hundred feet below the proposed point of diversion of the applicant and lower in elevation by about 70 or 80 feet.

During periods of heavy rainfall and immediately thereafter there is water flowing on the surface between the two springs but ordinarily the canyon is dry with the exception of a series of five or six intermediate water holes or springs near the head of the canyon which are about 10 to 20 feet apart. At times these water holes are connected by a small trickle of water but during the dry season there appears to be no water flowing between them. At a point from 70 to 150 feet below and North of the proposed source of diversion the water disappears entirely and does not reappear again until it is brought to the surface by a sandstone dike at the protestant's spring.

About 50 feet below the lower spring Mr. Brewster has constructed a short ditch or canal about 12 feet deep and has excavated a catch basin about ten feet square from which water is diverted through several pipes the largest of which is two inches in diameter and 90 feet long through which water is conveyed to a small distributing reservoir 20 feet by 50 feet and 3 feet deep.

It would appear that the present amount of water developed at the lower spring was approximately 2,000 gallons per day although at a greater expense a larger amount could be developed.

USE OF WATER BY PROTESTANT

Protestant T. H. Brewster owns 160 acres of land in the $W_2 S_2$ Section 8, $NE_2 SE_2$ Section 7 and $NW_2 NW_2$ Section 17, T 1 S, R 18 W, S.2.B. & L.

acquired under a homestead entry September 18, 1915.

Each year protestant spends a portion of his time on this property and has planted about one acre of land to orchard, garden truck and blackberries. To irrigate the orchard and crops he has developed as much water from his spring as could reasonably be expected without going to a great deal of expense. The blackberries are located at a higher elevation than the rest of the crops and in order to pump the water to them, he has installed a hydraulic ram which is operated only when there is sufficient water flowing from the spring for this purpose. The water is used also for domestic purposes.

In addition to this use Mr. Brewster supplies 300 gallons per day to Mr. Streshly, a neighbor of his and to whom he has sold some of his property.

Mr. Brewster has developed about 2,000 gallons per day all of which he claims to have applied to beneficial use.

It appears that Mr. Brewster proposes to sell more land and contemplates the location of about 100 cabin sites. If the plans of the protestant materialize it would appear that the future needs of the protestant would be about 20,000 gallons per day based upon an average need of 200 gallons per day per lot.

WITH COMPLETE DEVELOPMENT OF THE SPRING AT
APPLICANT'S PROPOSED POINT OF DIVERSION
THERE WOULD APPEAR TO BE UNAPPROPRIATED
WATER IN THE SOURCE

Testimony presented at the hearing would appear to indicate that with the spring completely developed there might be as much as 65,000 gallons per day developed at the upper spring in which case there would appear to be approximately 45,000 gallons per day available for the use of the applicant over and above the future requirements of the protestant.

At the hearing it was admitted by applicant's attorney that the amount of water named in the application, namely 0.6 cubic foot per second or approximately 387,800 gallons per day, was apparently an error and he signified his willingness to have it amended so as to meet whatever requirements might develop at the hearing.

Under date of October 15, 1928 the applicant advised this office that it was understood that the amount which might be available from the spring was nearer 0.1 cubic foot per second than 0.6 cubic foot per second which was the amount applied for but rather than to request that the application be amended it was desired to let the application remain in its present form with the understanding that this office had the power to "scale down".

DISPUTE OVER LOCATION OF SPRING FROM WHICH
APPLICANT SEEKS TO DIVERT

According to the notes of the original survey of the east line of Section 7, T 1 S, R 18 W, S.B.B. & M. made on November 2, 1896, the east quarter corner of the said section fell on a boulder 9 x 6 x 4 feet above the ground. Upon this boulder a cross was placed marking the exact corner from which a live oak tree 24 inches in diameter bore South $0^{\circ} 35'$ West 15 links distant marked $1/4$ S.B.T. No other trees being within the limits a mound of stone was raised West of the corner having a base of two feet and being $1\frac{1}{2}$ feet high.

The protestant claims to have seen this boulder with the cross on it and that its location places the spring on the east side of the section line and upon his property. He claims that several years ago the cross was removed presumably by someone who wished to change the position of the line but that a boulder still exists which has always been considered the corner.

This boulder measures 6 x 7 x 5 feet high and he claims is in a direct line with the other established corners. In the immediate vicinity of this boulder he claims there are two blazed trees.

Recently the County of Los Angeles made a survey of the east line of Section 7 and not being able to find the quarter section corner as described in the government field notes a new quarter section corner was arbitrarily fixed by the County Surveyor for county purposes only.

The Seaboard Engineering Company of Los Angeles in surveying the applicant's property tied its survey into the line established by the County of Los Angeles and as a result of this survey the spring appears to be located about 27.33 feet west of the section line on applicant's property.

As it appeared that the question of the location of applicant's proposed point of diversion could only be settled by having another survey made, it was agreed by both parties at the hearing that within five days thereafter they would get together and agree upon a surveyor who would make a new survey and establish the east and north lines of the southeast quarter of the southeast quarter of Section 7, T 1 S, R 18 W, S.B.B. & M. and that the results of this survey would be accepted as conclusive evidence as to the location of the spring from which applicant seeks to appropriate. At this time the examiner also requested that the spring be located by the surveyor.

On September 18, 1928 this office received a stipulation from the parties at interest waiving the agreement at the hearing and stipulating in place thereof--

1. That the corner found by the County Surveyor and designated as the southeast corner of Section 7 is the true southeast corner of Section 7.
2. That the survey of the Seaboard Engineering Company is tied to said corner and that the location of the spring is south of a line drawn east and west through a point 1300 feet north of said southeast corner of said Section 7.

This stipulation however still left the point undecided as to whether or not the spring was located on the applicant's property and under date of September 22, 1928 this office asked that the parties get together promptly in the appointment of a surveyor who would make the survey to determine the location of the north line and the east line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said section and the location of the spring with respect thereto, and that the results of the survey be shown upon a plat which would be furnished to this office at the earliest practicable date.

Mr. Brewster was unable on account of lack of finances to carry out his part of the agreement and consequently the survey has not been made and therefore this office has no alternative but to proceed in its decision with this matter of the location of the spring unsettled.

DISCUSSION

It is with reluctance that this office takes action on the application without having the location of the source of the spring definitely decided. The applicant is ready and willing at any time to cooperate with the protestant in the matter of having the east line of Section 7 resurveyed but as protestant is not in a position financially to stand his share of the expense in having this matter cleared this office cannot but assume that the survey of the Seaboard Engineering Company is correct until satisfactory evidence is produced by the protestant to the contrary.

As stated above there would appear to be with proper development more water available for appropriation. Just what this amount may be is a matter of conjecture but from the statement of a witness for the protestant himself to the effect that with proper development there might be 65,000 gallons per day available at the proposed point of diversion there would appear

to be at least 45,000 gallons per day available for the use of the applicant.

Applicant proposes to utilize the water for domestic and incidental irrigation purposes on cabin sites which are to be located on the area described in the application. There are one hundred acres to be so subdivided. On the basis of six lots per acre and 200 gallons per day per lot which is the customary allowance of the Division of Water Rights in such cases applicant would require approximately 0.20 cubic foot per second, and the permit should be limited accordingly.

O R D E R

Application 4759 for a permit to appropriate water having been filed with the Division of Water Rights as above stated, a protest having been filed, a public hearing having been held, and the Division of Water Rights now being fully advised in the premises:

IT IS HEREBY ORDERED that Application 4759 be approved for an amount not to exceed 0.20 of a cubic foot per second and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this nd 2nd day of Jan 1929

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Harold Conkling
(Harold Conkling)
CHIEF OF DIVISION OF WATER RIGHTS

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